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Attorneys for Creditor  
BRILENA, INC.

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

IN RE:

SONIA C. LOPEZ,

Debtor(s).

Case No. BK-S-15-14086-mkn

Chapter 13

**BRILENA, INC'S RENEWED OBJECTION TO CONFIRMATION OF DEBTOR'S  
AMENDED CHAPTER 13 PLAN #2 DATED MARCH 18, 2016**

Secured Creditor, BRILENA, INC. AS TO AN UNDIVIDED 31.2500% INTEREST,  
MICHAEL BUMBACA AND ADELE BUMBACA HUSBAND AND WIFE AS JOINT  
TENANTS AS TO AN UNDIVIDED 43.7500% INTEREST, FIRST REGIONAL BANK, AS  
CUSTODIAN FBO ROBERT PASTER IRA ACCT. NO 051236, AS TO AN UNDIVIDED  
25.000% INTEREST ("BRILENA"), by and through its attorney of record, Michael R. Brooks,  
Esq. of the law firm of Kolesar Leatham hereby submits the following brief with objections to  
confirmation of the proposed Chapter 13 Plan #6 dated August 3, 2018 filed by the Debtor.

**STATEMENT OF FACTS**

1. Debtor filed a Petition for Relief pursuant to Chapter 13 of the Bankruptcy Code  
on July 16, 2015. [ECF No. 1.]

2. On August 3, 2018, Debtors filed Debtor's Amended Plan No. 6. (the "Proposed

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Plan"). [ECF No. 126].

3. Brilena is the holder of a secured mortgage claim and home equity line of credit against real property 819 North Divisadero Street, Visalia, CA 93291.

### **OBJECTIONS TO CONFIRMATION**

Bankruptcy Code § 1324 provides, "...after notice, the court shall hold a hearing on confirmation of plan. A party in interest may object to the confirmation of the plan." Although "party in interest" is not specifically defined in the Bankruptcy Code, § 1109(b) provides some guidance stating "[a] party in interest, including the debtor, trustee, a creditor's committee, an equity security holder's committee, a creditor, an equity security holder, or any indenture trustee, may raise and may appear and be heard on any issue in a case under this chapter." *In re Davis*, 239 B.R. 573 (10th Cir. BAP 1999).

Brilena is an interested party because it is the payee of a Deed of Trust (the "DOT") dated August 29, 2007 in the original principal amount of \$80,000.00. *A true and correct copy of the DOT is attached hereto as Exhibit "A" and incorporated herein by reference.* Debtor's obligations under the Contract are secured by real property located at 819 North Divisadero Street, Visalia, CA 93291 (the "Property").

#### **1. The Plan Is Not Feasible.**

The Plan calls for a payment of \$2,753.00 for twenty-four (24) months when there is no evidence that the Debtor has the disposable income to cover this payment. Specifically, the Plan states that the Debtor has a negative monthly income of \$2,139.70. As a result, the Plan is not feasible as it is based on speculation and wishful thinking of the debtor.

Further, the Debtor has failed to provide revised Schedules I & J to show adequate income when the Debtor claims to be self-employed.

There is no reasonable prospect for the borrower to make payments. The current principle

1 and interest due on the DOT are greater than the scheduled by the borrower. Further, the pre-  
2 petitioned arrears on the DOT are \$31,010.08. A Proof of Claim was filed on November 13, 2015.  
3 A true and correct copy of the Proof of Claim is attached hereto as Exhibit B.

4 The Plan also fails to provide for the tax defaults on the property to Tulare County totalling  
5 \$5,013.37. A true and correct copy of the outstanding invoices is attached as Exhibit C.

6 Therefore, this Plan is not feasible for the foregoing reasons stated.

7  
8 **CONCLUSION**

9 Any Chapter 13 Plan proposed by the Debtor must provide for and eliminate the Objections  
10 specified above in order to be reasonable and to comply with applicable provisions of the  
11 Bankruptcy Code. It is respectfully requested that confirmation of the Chapter 13 Plan #6 as  
12 proposed by the Debtor be denied.

13 WHEREFORE, Secured Creditor prays as follows:

- 14  
15 (1) That confirmation of the proposed Chapter 13 Plan is denied; or  
16 (2) For attorney's fees and costs incurred herein.  
17 (3) For dismissal of the Chapter 13 proceeding.  
18 (4) For such other relief as this court deems proper.

19 DATED this 18th day of October 2018.

20  
21 **KOLESAR & LEATHAM**

22 By: 

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